

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 15TH DAY OF DECEMBER 2003, AT 7:15 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Larry N. Rush	-Chair
	Annette S. Perkins	-Vice Chairman
	Mary W. Biggs	-Supervisors
	Gary D. Creed	
	John A. Muffo	
	James D. Politis	
	C.P. Shorter	
	Jeffrey D. Johnson	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	T.C. Powers, Jr.	-Planning Director
	Steve Sandy	-Zoning Administrator
	Robert C. Parker	-Public Information Officer
	Vickie L. Swinney	-Secretary

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Chair called the meeting to order and the Pledge of Allegiance was recited.

PUBLIC HEARINGS

Special Use Permit

James W. Radford, Jr. (Agent: Gay & Keese, Inc.) requests a Special Use Permit in a Planned Mobile Home Residential Park (PMR) to allow an expansion of the existing Oak Forest Mobile Home Park from 185 units to 219 units. The property is located at 1156 Hightop Road and is identified as Tax Parcel No. 66-A-98 (Acct. ID #016259) in the Prices Fork Magisterial District. The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

This public hearing was continued to the Board of Supervisors' January 26, 2004 meeting pending

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a recommendation from the Planning Commission. recommendation.

Beverly Bishop spoke in opposition to the special use permit to expand Oak Forest Mobile Home Park. Under the current special use permit issued to Mr. James Radford, only 185 lots are permitted and there are 195 mobile homes. Ms. Bishop stated that Mr. Radford repeatedly overcharges for water use; and many of the homes are not being properly maintained. She urged the Board to deny this special use permit until all problems relating to the existing mobile home park are resolved.

There being no further speakers, the public hearing was continued to Monday, January 26, 2004.

Comprehensive Plan Amendment and Rezoning Request

RRH Property Management (Agent; Balzer & Associates) requests a comprehensive plan amendment to change the land use designation of 2.71 acres from a rural expansion area to an urban expansion area. The property is identified as Tax Parcel No. 119-A-33A (Acct ID #000274) in the Riner Magisterial District.

RRH Property Management (Agent; Balzer & Associates) requests to rezone 2.71 acres from Residential (R-2) to Multi-Family Residential (RM-1) with possible proffered conditions, to allow the construction of up to fourteen (14) town homes. The property is located at 1803 Fairview Church Road and is identified as Tax Parcel No. 119-A-33A (Acct ID #000274) in the Riner Magisterial District. The property currently lies in an area designated as Rural Expansion in the Comprehensive Plan.

The Zoning Administrator provided a brief presentation on the request. RRH Property Management is requesting a comprehensive plan amendment and a rezoning on property located at 1803 Fairview Church Road in order to construct 14 town homes. In November 2002 a special use permit was granted in order to allow a day care business. The plans for a day care have since been changed and the owner is now requesting a rezoning in order to construct town homes. At their December 10, 2003 meeting, the Planning Commission recommended approval of this request to the Board of Supervisors subject to eight conditions.

Steve Semones, Balzer & Associates, agent for RRH Property Management, addressed the Board on the proposed request. Mr. Semones explained the process of the development and addressed several key issues regarding the development. He asked the Board to consider approval of this request.

Karen Akers expressed concerns with the existing problems with the intersection of Fairview Church Road and Rt. 8. Ms. Akers stated that while she does not have a problem with the development of town homes, which she believes is an ideal development for the area, her biggest concern is the additional traffic that will create more congestion at the intersection.

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Bruce Oliver expressed concerns with the additional traffic on Fairview Church Road and Rt. 8. He believes a right hand turn lane on Rt. 8 would solve the congestion problems. He also expressed concerns with stormwater runoff from the development. He stated that a stormwater management plan should be approved as part of the final plan.

Boundary Line Adjustment Agreement - Town of Blacksburg

It is the Board of Supervisors' intent to enter into a Boundary Line Adjustment Agreement with the Town of Blacksburg providing for the adjustment of the boundary of the Town of Blacksburg's corporate limits to include approximately 17.5 acres of land located adjacent to Harding Avenue at the Northwest boundary of the Town, commonly known as the Price's Meadows and Hilltop Garden Subdivisions.

Frank Lau addressed the Board concerning boundary line adjustments. He stated the proposed boundary line adjustment is near his residence. He suggested the Board of Supervisors have a closer cooperation with the Town of Blacksburg on future developments that border the town, which may eventually become part of Blacksburg. The Town of Blacksburg should have sufficient input on development that will affect residents in the town. He stated that the Town of Blacksburg should not end up with developments without first providing sufficient input regarding sewer, water and density issues.

PUBLIC ADDRESS

Susan Miller addressed the Board concerning the \$5 million Bond designated for school athletic facilities. Ms. Miller expressed concerns with the equity of the proposal to construct new facilities and upgrade existing facilities. The proposal does not treat each high school fairly as some areas are receiving \$1.5 - \$2 million while the other areas are only receiving \$500,000 to \$650,000. Ms. Miller suggested a committee be formed to review the proposals in order to make the playing field level.

Bruce Oliver expressed concerns with the speed limit on Radford Road in the Plum Creek area of Montgomery County. Mr. Oliver stated that there has been an increase in businesses and residents in Plum Creek and that the speed limit should be lowered to 45 mph in order to improve the safety in this area. He also stated that Rock Road does not have a speed limit posted until you reach the Radford City limits and requested a speed limit of 45 mph be posted. Mr. Oliver also noted that there is no stop sign at the end of Hornsby Drive leading onto Radford Road. The Plum Creek Consolidated Collection site is located on Hornsby Drive and creates a lot of traffic. He requested that a stop sign be installed.

Sister Claire addressed the Board with concerns about the request for a special use permit to expand the Oak Forest Mobile Home Park. She stated that there are no fire hydrants, the water system is inadequate, tenants are being overcharged for water, and the roads are not properly maintained. Sister Claire asked the Board to deny this request until the problems at the Mobile Home Park are resolved.

ADDENDUM

On a motion by Annette S. Perkins, seconded by C.P. Shorter and carried unanimously, the following addendum dated December 15, 2003 was added to the agenda under New Business:

RATIFICATION RESOLUTION - 2003A BOND

The vote on the foregoing motion was as follows:

AYE

John A. Muffo None

Gary D. Creed

Annette S. Perkins

James D. Politis

C.P. Shorter

Mary W. Biggs

Larry N. Rush

NAY

CONSENT AGENDA

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously, the Consent Agenda dated December 15, 2003 was approved.

The vote on the foregoing motion was as follows:

AYE

Mary W. Biggs

C.P. Shorter

James D. Politis

Annette S. Perkins

Gary D. Creed

John A. Muffo

Larry N. Rush

NAY

None

Approval of Minutes

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously, the minutes dated October 27, November 12 and November 24, 2003 were approved.

Schedule Public Hearing - Amend Ordinance - Tax Relief for the Elderly and Handicapped

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby schedules a public hearing on Monday, January 26, 2004 at 7:15 p.m. at the Montgomery County Government Center, Christiansburg, Virginia for the purpose of receiving comments on the following:

Amendment to Chapter 2, Division 5

An Ordinance Amending Chapter 2, Division 5, Entitled Tax Exemptions and Deferrals for Elderly and Handicapped Section 2-107 of the Code of the County of Montgomery, Virginia, in Order to Increase the Income Limits from \$14,000-\$21,000 to \$16,000 - \$25,000 and to raise the asset limit from \$50,000 to \$80,000 for those Citizens Eligible for Tax Relief.

County Administration - Transfer from General Contingencies

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer is hereby authorized, as follows:

FROM:

950 General Contingencies (\$30,000)

TO:

110 County Administration \$30,000

Said resolutions transfer funds from General Contingencies to the County Administration Division to cover costs associated with leave payments for an employee leaving county service.

Fire and Rescue Service Rings: Transfer From General Contingencies

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer is hereby authorized, as follows:

FROM:

950 General Contingencies (\$1,000)

TO:

330 Fire and Rescue Departments \$1,000

Said resolution transfers appropriated funds from General Contingencies to the Fire and Rescue Departments to provide remaining funds necessary to cover the cost of service rings for the Montgomery County volunteer fire and rescue personnel.

Board of Supervisors - Transfer From General Contingencies

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer is hereby authorized, as follows:

FROM:

950 General Contingencies (\$17,000)

TO:

100 Board of Supervisors \$17,000

Said resolution transfers funds from General Contingencies to the Board of Supervisors to cover the costs of professional services including turnover audit of the Treasurer's Office, outside legal services, property appraisal services, and consulting services for the Commissioner and Treasurer Offices.

County Capital Projects Fund - Elliston Volunteer Fire Department

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004 for the function and in the amount as follows:

General Fund

02-451209	Transfer to County Capital Projects Fund	\$225,000
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The source of funds for the foregoing appropriation is as follows:

02-451203	Undesignated General Fund Balance	\$225,000
	Elliston Volunteer Fire Department Reserve	

BE IT FURTHER RESOLVED, That an appropriation to the County Capital Projects Fund for the fiscal year ending June 30, 2004 is hereby authorized, as follows:

County Capital Projects Fund

330	Elliston Volunteer Fire Department - Pumper	\$225,000
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The source of funds for the foregoing appropriation is as follows:

12-451100	Transfer from General Fund	\$225,000
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Said resolution transfers \$225,000 from the General Fund to the County Capital Projects Fund to cover the cost of a pumper for the Elliston Volunteer Fire Department. The Department had funds held in reserve from previous funding not expended.

Commonwealth's Attorney- Additional Appropriation

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004 for the function and in the amount as follows:

220 Commonwealth's Attorney \$126

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

419104 Confiscations \$126

Said resolution appropriates monies received in the Forfeited Asset Sharing Program from the Department of Criminal Justice Services.

Sheriff - Recovered Costs

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004, for the function and in the amount as follows:

321 Sheriff - Grants \$25,680

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

424401 State Grants \$25,000

424401 Project Life Saver Contributions \$ 680

Total \$25,680

Said resolution appropriates funds received as Project Life Saver Contributions, an Occupant Protection grant, a Reducing Impaired Driving grant, and a Police Traffic Service/Speed Grant.

Emergency Services Coordinator - Grants

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Montgomery County Board of Supervisors that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004, for the function and in the amount as follows:

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111	Emergency Services Coordinator Grants	\$72,582
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

02111-424401 State Grants	\$72,582
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Said resolution appropriates Emergency Services Grant funds.

Treasurer's Collections Office

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004 for the function and in the amount as follows:

162	Treasurer's Collections	\$900
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

411604	DMV Stop Administrative Fee \$900
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Said resolution appropriates monies received from taxpayers for DMV service charges for stops on license issuance.

Signature Authorization - County Administrator

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby authorizes B. Clayton Goodman, III, County Administrator, to affix his signature to County Warrants, Documents, etc.

Said authorization is effective immediately.

Final Plat - Sterling Manor Subdivision Phase II

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, Sterling Manor Subdivision Phase II consists of 12 lots located off Stratford View Drive and has been found to meet the requirements of the Montgomery County Code Chapter 8, Article IV (Subdivision Ordinance); and

WHEREAS, The Montgomery County Code, Section 8-156 provides that a subdivider shall make adequate provision for storm and floodwater runoff and that if a subdivision involves new streets, the Virginia Department of Transportation shall determine that adequate provision for runoff will be taken; and

WHEREAS, The Virginia Department of Transportation requires that Montgomery County assume maintenance responsibility and liability that might arise from detention facilities in subdivisions; and

WHEREAS, The Montgomery County Code, Section 8-157 provides for approval by the County of stormwater detention facilities conditioned upon agreement being entered into by the County and a homeowners association whereby the association assumes all liability for the maintenance and operation of the stormwater detention facilities; and

WHEREAS, The developer of Sterling Manor Subdivision Phase II has agreed that said responsibility shall be assumed by the homeowners association.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby approve the Final Plat of Sterling Manor Subdivision Phase II (Draper Aden Associates Project No. 7137-10 dated June 21, 2002), Prices Fork Magisterial District.

FURTHER, The Chairman is hereby authorized to sign said plat for recordation.

Request to Withdraw from AFD-10 (Mt. Tabor)-Refer to AFD Advisory Committee and Planning Commission

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

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WHEREAS, Progress Street Builders applied to Montgomery County for withdrawal of approximately nine (9) acres (Tax Parcel 29-2-5D) from Agricultural & Forestal District 10 (Mt. Tabor).

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Progress Street Builders withdrawal request is hereby referred to the Agricultural & Forestal District (AFD) Advisory Committee and the Planning Commission for recommendation.

FURTHER, That a public hearing on the Progress Street Builders withdrawal request is hereby scheduled on Monday, January 26, 2004 at 7:15 p.m. in the Board Chambers, Montgomery County Government Center, 755 Roanoke Street, Christiansburg, Virginia to hear citizens' comments.

AFD Review for the Tom's Creek Sewer Line

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Town of Blacksburg proposes to construct the Toms Creek Sewer System, which includes a section of gravity sewer line of approximately 15,000 feet in length, to be located in the unincorporated portion of Montgomery County, of which, approximately 6,000 feet of gravity sewer line would be constructed through Agricultural & Forestal District – 1 (Prices Fork); and

WHEREAS, The Town of Blacksburg has filed notice with the Montgomery County Board of Supervisors of their intent to construct a section of gravity sewer line through Agricultural & Forestal District – 1 in accordance with Section 15.2-4313 of the Code of Virginia, as amended.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the proposed construction of that portion of the Blacksburg Toms Creek Sewer System passing through Agricultural & Forestal District – 1 is hereby referred to the Planning Commission and the Agricultural & Forestal District Advisory Committee for their review and recommendation.

2232 Review for the Tom's Creek Sewer Line

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Town of Blacksburg proposes to construct the Toms Creek Sewer System, which includes a section of gravity sewer line of approximately 15,000 feet in length, to be located in the unincorporated portion of Montgomery County; and

WHEREAS, In accordance with state law, the Board of Supervisors by Resolution of July 13, 1998, established a policy for Planning Commission review of any public building, structure, facility or area

prior to its construction, establishment or authorization in accordance with Section 15.2-2232 of the Code of Virginia, 1950, as amended.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia, that the proposed construction of that portion of the Blacksburg Toms Creek Sewer System to be located in the unincorporated portion of Montgomery County is hereby referred to the Planning Commission for review to determine compliance or non-compliance with the Montgomery County Comprehensive Plan.

Amend Term Limits-Boards and Commissions

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia, the resolution adopted on April 8, 2002 that membership on the following boards/committees/commissions/authorities appointed by the Board of Supervisors shall be limited to two (2) full consecutive terms, is hereby amended as follows:

1. Adjustment and Appeals Board (Building Code)
2. Community College Board (New River Valley)
3. Community Services Board
4. Comprehensive Services Act (CPMT) Parent and Citizen Representatives
5. Human Services Commission
6. Industrial Development Authority
7. Juvenile Detention Commission
8. Library Board
9. Office on Youth Advisory Board
10. Parks and Recreation Commission
11. Pepper's Ferry Regional Wastewater Treatment Authority
12. Planning Commission
13. Planning District Commission
14. Social Services Board
15. Solid Waste Authority (Montgomery Regional)
16. Transportation Safety Commission (3)

BE IT FURTHER RESOLVED, Any person who has served two (2) or more full terms on one of the above referenced boards/committees/commissions/authorities as of **April 9, 2002**, shall continue in office for the remainder of their term, at which time they will be ineligible for reappointment. A person who has completed one full term and is serving a second term as of **April 9, 2002** then that person shall be

ineligible for reappointment at the end of the second term.

BE IT FURTHER RESOLVED, Any person who is currently serving their first term on a board/committee/commission/authority as of **April 9, 2002** will be eligible to serve one additional full term, at the discretion of the Board of Supervisors.

BE IT FURTHER RESOLVED, In the event an appointed member does not or is unable to complete the term for which appointed for any reason, then the Board of Supervisors shall appoint another member to fill the unexpired term. When appointed to fill an unexpired term, that person is eligible to be appointed to two (2) consecutive full terms.

BE IT FURTHER RESOLVED, Members of boards/committees/commissions/authorities whose term expires shall continue to hold office until his or her successor has been appointed.

BE IT FURTHER RESOLVED, That the term limits outlined above shall not apply to any person appointed as an alternate.

Request for a Speed Study - Brooks Field Road (SR 654)

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The County Administrator has received a petition from concerned citizens requesting the Virginia Department of Transportation to conduct a speed study on Brooksfild Road (SR 685) from 1824 Brooksfild Road to 1886 Brooksfild Road to improve the safety in this area; and

WHEREAS, Pursuant to the Board's policy adopted November 13, 1996, this petition contains the signatures of a least 50% of the property owners along the specified road.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby respectfully requests the Virginia Department of Transportation to conduct a speed study on said road to determine the feasibility of reducing the speed limit to improve the safety of this area.

APPOINTMENTS

Transportation Safety Commission -Sheriff Tommy Whitt

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Sheriff Tommy Whitt** to the **Transportation Safety Commission** effective January 1, 2004 and expiring December 31, 2007.

Transportation Safety Commission-Chief William H. Brown

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Chief William H. Brown** to the **Transportation Safety Commission** effective January 1, 2004 and expiring December 31, 2006.

Transportation Safety Commission-Chief Gary Brumfield

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Chief Gary Brumfield** to the **Transportation Safety Commission** effective January 1, 2004 and expiring December 31, 2006.

Transportation Safety Commission-Kenneth Neal Turner

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Kenneth Neal Turner** to the **Transportation Safety Commission** effective January 1, 2004 and expiring December 31, 2006.

Transportation Safety Commission-Walter W. Viohl, Jr.

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints

Walter W. Viohl, Jr. as the Virginia State Police representative to the **Transportation Safety Commission** effective January 1, 2004 and expiring December 31, 2006.

Transportation Safety Commission-David Clarke

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **David Clarke** as the Virginia Department of Transportation representative to the **Transportation Safety Commission** effective January 1, 2004 and expiring December 31, 2006.

Transportation Safety Commission-Dan Brugh

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Dan Brugh** as the Metropolitan Planning Organization (MPO) representative to the **Transportation Safety Commission** effective January 1, 2004 and expiring December 31, 2006.

NEW BUSINESS

Amendment to the Ground Lease - Courthouse Renovation and Expansion Project/School Athletic Facilities

On a motion by Annette S. Perkins, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby approves the amended Ground Lease dated December 1, 2003 between the Board of Supervisors, Montgomery County School Board and the Montgomery County Industrial Development Authority as attached in Section 12 and Section 13.

GROUND LEASE

THIS GROUND LEASE, dated as of the 1st day of December, 2003, between the **COUNTY OF MONTGOMERY, VIRGINIA (the “County”)** and the **MONTGOMERY COUNTY SCHOOL BOARD (the “School Board”)** ~~each~~ as lessor, and the **INDUSTRIAL DEVELOPMENT AUTHORITY OF MONTGOMERY COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (**the “Authority”**), as lessee.

WITNESSETH:

WHEREAS, the Authority desires to acquire a leasehold interest in certain real property and personal property located in the County of Montgomery, Virginia (**the “County”**) as more fully described in **Exhibit A** hereto, (**the “Property”**), and to provide funds for ~~a portion of the~~ financing of the acquisition, design, construction, ~~renovation, expansion, and~~ equipping ~~and furnishing~~ of a new County Courthouse for the County (**the “Courthouse Project”**) through the issuance by the Authority of its \$~~5,000,000~~ _____ Public Facility Lease Revenue Bond, Series 2003A (**the “2003A Bond”**) and to provide funds for financing the costs of the acquisition, design, construction, ~~renovation~~ and equipping of athletic facilities for County High Schools (**the “School Project”, together the “Projects”**) through the issuance by the Authority of its \$~~5,000,000~~ _____ Public Facility Lease Revenue Bond, Series 2003B (**the “2003B Bond”, together with the 2003A Bonds, the “Bonds”**); and

WHEREAS, the Authority, the County and Davenport & Company, LLC have entered into a Bond Purchase Agreement, dated as of ~~November 25~~ December __, 2003 (**the “Bond Purchase Agreement”**), to provide the terms for the issuance of the Authority’s 2003A Bond and 2003B Bond, to provide funds for the costs of the Projects as described above, and costs of issuing the Bonds; and

WHEREAS, the County and the School Board desire to lease their respective interests in the Property to the Authority to accomplish the acquisition, design, construction, ~~renovation, expansion and~~, equipping ~~and furnishing~~ of the Courthouse Project with funds derived from proceeds of the 2003A Bond and the acquisition, design, construction, ~~renovation~~ and equipping of the School Project from proceeds of the 2003B Bond, which Property will be leased to the County pursuant to a Lease Agreement, between the Authority and the County, dated as of the date hereof (**the “Lease Agreement”**); and

WHEREAS the Authority desires to enter into this Ground Lease with the County and the School Board in order to accomplish the acquisition, ~~design~~, construction, renovation, ~~expansion, and~~ equipping ~~and furnishing~~ of the Courthouse Project and the acquisition, design, ~~construction~~ construction, renovation and equipping of the School Project;

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained and other valuable consideration, the parties hereto covenant and agree as follows:

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Section 17. Lease of Property. The County and the School Board hereby demise and leases to the Authority, and the Authority hereby leases from the County and the School Board, the Property, together with all improvements now or hereafter located thereon or situated thereon and financed with the proceeds of the Bonds, subject to the terms and provisions of this Ground Lease.

Section 18. Term. The term of this Lease shall commence on the execution hereof and shall expire at 11:59 p.m., ~~July 15, 2028 as to the Courthouse Project and July 15, 2023 as to the School Project,~~ unless such term is sooner terminated as hereinafter provided.

Section 19. Rental. The Authority shall pay to the County and the School Board, upon the execution hereof, as and for rental hereunder the sum of \$10.00 from the proceeds of the Bonds, as defined in the Lease Agreement, and other valuable consideration upon the execution of this Ground Lease, receipt of which is hereby acknowledged, representing rental of the Property in advance for the term of this Ground Lease.

Section 20. Purpose. The Authority shall use a portion of the Property solely for the purpose of the acquisition, ~~design, construction, renovation, expansion, and equipping~~ **and furnishing** of the Courthouse Project thereon and a portion of the Property solely for the purpose of the acquisition, design, construction, ~~renovation~~ and equipping of the School Project, and leasing of the same to the County pursuant to the Lease Agreement, as well as for such purposes as may be incidental thereto.

Section 21. Title to Property. The County and the School Board represent and warrants that each of them is the owner of their respective portions of the Property.

Section 22. Assignment and Sublease. The Authority may assign its rights under this Ground Lease or sublet the Property without the consent of the County or the School Board, as applicable, only (a) in connection with any assignment of its rights under the Lease Agreement, (b) if the Lease Agreement is terminated for any reason, or (c) if an Event of Default, as defined in the Lease Agreement, has occurred and is continuing.

Section 23. Fees and Expenses. The County has agreed under the Lease Agreement to pay all reasonable expenses of the Authority arising out of the transactions contemplated by the Basic Agreements (as defined in the Lease Agreement).

Section 24. Termination.

(a) In the event the County makes all of the payments of Basic Rent and additional rent, if any, provided for in the Lease Agreement or upon the expiration of the term hereof, the leasehold estate of the

Authority hereunder shall be transferred, conveyed and assigned by the Authority to the County or the School Board, as applicable. The Authority agrees, upon such transfer, conveyance, assignment and termination, to surrender the Property to the County or the School Board, as applicable, or as instructed by the County or the School Board, as applicable, after taking all actions necessary by law to permit such transfer, conveyance and assignment and, upon the request of the County or the School Board, as applicable, to execute an appropriate instrument evidencing such transfer, conveyance and assignment.

(b) The County or the School Board shall not have the right to exclude the Authority from the Property or take possession of the Property (other than pursuant to the Lease Agreement) or to terminate this Ground Lease prior to the expiration of its term upon any default by the Authority of its obligations hereunder, except that if, upon payment by the County of all amounts specified in Section 4.12 of the Lease Agreement, the Authority fails to convey its leasehold estate hereunder to the County or the School Board, as applicable, then the County or the School Board, as applicable, shall have the right to terminate this Ground Lease, such termination to be effective 30 days after giving notice of such termination to the Authority and, itself, convey its interest in the Property to the County or the School Board, as applicable. However, in the event of a default by the Authority hereunder, the County or the School Board, as applicable, may maintain an action for specific performance.

Section 25. Quiet Enjoyment. Subject to the Lease Agreement, the Authority at all times during the term of this Ground Lease shall peaceably and quietly have, hold and enjoy the entire leasehold estate created hereunder.

Section 26. Notices. All notices to be given under this Ground Lease shall be in writing and shall be deemed to have been given when delivered in person or when mailed by first class registered or certified mail, postage prepaid, addressed (a) if to the Authority, c/o Montgomery County Administrative Office, 755 Roanoke Street, Suite 2E, Christiansburg, Virginia 24073-3181 (Attention: Chairman), (b) if to the County, c/o County Administration Office, 755 Roanoke Street, Suite 2E, Christiansburg, Virginia 24073-3181 (Attention: County Administrator) or if to the School Board, at 200 Junkin Street, Christiansburg, Virginia 24073, (Attention: Superintendent of Schools).

Section 27. Severability. If any provision of this Ground Lease shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.

Section 28. Additional Provisions. (a) All costs and expenses in connection with (i) the undertaking of the acquisition, design, construction, renovation, expansion, ~~and~~ equipping and furnishing of the Courthouse Project and the issuance of the Series A Bond and (ii) the undertaking of the acquisition, design, construction and equipping of the School Project and the issuance of the Series B Bond, including the Authority's expenses, the fees and expenses of the County, the fees and expenses of the School Board and its counsel, and the fees and expenses of the Bond Counsel and the Underwriter, for the sale of the Series A Bond and the Series B Bond, shall be paid for the proceeds therefrom as applicable, or other

funds of the County. If for any reason the Series A Bond and Series B Bond are not issued, it is understood that all such expenses shall be paid by the County and that the Authority and the School Board shall have no responsibility therefor.

(b) The School Board shall be responsible for the acquisition, design, construction, renovation and equipping of the School Project. Monies for the same are to be provided by the County from the sale of the Series B Bond. The School Board shall maintain and operate the School Project.

Section 29. Indemnification. The County by acceptance of this financing agrees to indemnify, defend and save harmless, to the extent permitted by law, the School Board, its officers, members, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses in any way connected with the ~~School Board~~; the issuance of the Series A Bond and the Series B Bond, ~~or the acquisition, design, construction and equipping of the Courthouse Project and the School Project.~~

Section 30. Liability of Authority. Notwithstanding any provision of this Ground Lease to the contrary, the obligations of the Authority under this Ground Lease are not general obligations of the Authority, but are limited obligations payable solely from payments of Basic Rent and additional rent, if any, as such terms are defined in the Lease Agreement. No director or officer of the Authority shall be personally liable on the Authority's obligations hereunder.

Section 31. Successors and Assigns. This Ground Lease shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

Section 32. Counterparts. This Ground Lease may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same Ground Lease.

Section 33. Governing Law. This Ground Lease shall be governed by the laws of the Commonwealth of Virginia.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
C.P. Shorter	None
James D. Politis	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	

Mary W. Biggs
Larry N. Rush

Ratification Resolution - 2003A Bonds

On a motion by Annette S. Perkins, seconded by John A. Muffo and carried unanimously,

WHEREAS, the Board of Supervisors of the Montgomery County, Virginia (**the “Board of Supervisors”**) adopted a resolution on November 24, 2003 (**the “Approving Resolution”**) relating to the issuance by the Industrial Development Authority of Montgomery County, Virginia (**the Authority**) of its: (a) lease revenue bonds in an amount not to exceed \$5,000,000 (**the “Series A Bond”**) to finance a portion of the costs of the acquisition, design, construction, renovation, expansion, equipping and furnishing of a County Courthouse (**the “Courthouse Project”**); (b) lease revenue bonds in amount not to exceed \$5,000,000 (**the “Series B Bond”, together with the Series A Bonds, the “Bonds”**) to finance the acquisition, design, construction and equipping of athletic facilities for County High Schools which include Eastern Montgomery High School, Blacksburg High School, Christiansburg High School and Auburn High School (**collectively, the “School Project”, together with the Courthouse Project, the “Projects”**); and (c) the lease of the Projects to the County to accomplish certain purposes of the Virginia Industrial Development and Revenue Bond Act (**the “Act”**), and the Authority has agreed to do so; and

WHEREAS, Davenport & Company, LLC (**the “Underwriter”**) is purchasing the Bonds on terms which are further described below and in the underlying Documents (as defined in the Approving Resolution) and the approval of the substantially final form of such Bonds and Documents are to be ratified by the Board of Supervisors;

BE IT RESOLVED BY BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA:

1. The issuance of the Series A Bond, in substantially final form as presented at this meeting with a final maturity of July 15, 2023, and in the amount of \$5,000,000 and bearing interest at the rate of 4.20% per annum, is hereby approved.
2. The issuance of the Series B Bond, in substantially final form as presented at this meeting with a final maturity of July 15, 2023, and in the amount of \$5,000,000 and bearing interest at the rate of 4.20% per annum, is hereby approved.
3. The Documents in substantially final form as presented at this meeting are hereby adopted and approved

4. The Chairman or Vice Chairman of the Board of Supervisors and all other County officers are hereby authorized and directed to execute and deliver all documents and instruments related to or appropriate in connection with the issuance of the Bonds and the delivery of the Documents with such completions, omissions, insertions and changes as may be approved by the officer executing them, his or her execution to constitute conclusive evidence of his or her approval of any such completions, omissions, insertions and changes.
5. All other acts of the Chairman or Vice Chairman of the Board of Supervisors and other officers of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the plan of financing, the issuance and sale of the Bonds, the delivery of the Documents and the acquisition, design, construction, renovation, expansion, equipping and furnishing of the Projects are hereby approved and ratified.
6. This resolution shall take effect immediately.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
C.P. Shorter	
James D. Politis	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Larry N. Rush	

Financing Resolution - Phase II Courthouse Renovation and Expansion Project

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

WHEREAS, the Board of Supervisors of Montgomery County, Virginia (**the “Board of Supervisors”**) desires to obtain a financing for a portion of the costs of the acquisition, design, construction, renovation, expansion, equipping and furnishing of the County Courthouse (**the “Courthouse Project”**) not covered by the Series 2003A Bond (as defined below);

WHEREAS, the Board of Supervisors had requested the Industrial Development Authority of Montgomery County, Virginia (**the “Authority”**) to issue, offer and sell its lease revenue note or bond in an amount of \$5,000,000 (**the “Series 2003A Bond”**) to finance a portion of the cost of the acquisition,

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design, construction, renovation, expansion, equipping and furnishing of the Courthouse Project and to lease the Courthouse Project to the County to accomplish certain purposes of the Virginia Industrial Development and Revenue Bond Act (**the “Act”**), providing the County’s moral obligation in support of the payment of the Series 2003A Bond and now desires the Authority to (a) issue, offer and sell its lease revenue note or bond in an approximate amount of up to \$10,000,000 (**the “Series 2004A Bond”**) to finance a portion of the cost of the acquisition, design, construction, renovation, expansion, equipping and furnishing of the Courthouse Project and to modify the lease of the Courthouse Project to the County in connection with the facility to accomplish certain purposes of the Act, providing the County’s moral obligation in support of the payment of the Series 2004A Bond and the Authority will be requested to do so; and

WHEREAS, the Authority, based on the request of the Board of Supervisors, would (a) use the proceeds of the Series 2004A Bond to pay a portion of the costs incurred and to be incurred in connection with the Courthouse Project, including costs of issuing the Series 2004A Bond, (b) amend the lease of the Courthouse Project to the County under a ground lease and a lease agreement with the Authority and, (c) secure the Series 2004A Bond by an assignment of its rights under such amended lease agreements (except the right to receive indemnification, to receive notices and to give consents and to receive its administrative expenses) to Davenport & Company, LLC(**the “Underwriter”**), under an assignment agreement between the Authority and the Underwriter, which is to be acknowledged and consented to by the County, all in accordance with a bond purchase agreement among the Underwriter, the County and the Authority;

WHEREAS, There have been presented to this meeting substantially final drafts of the following documents (**collectively, the “Documents”**) in connection with the transactions described above, copies of which shall be filed with the records of the Board of Supervisors:

- a. an amendment to the Ground Lease dated as of January 1, 2004, between the County and the Authority conveying to the Authority a leasehold interest in the property described therein (**the “Ground Lease”**);
- b. an amendment to the Lease Agreement, dated as of January 1, 2004, between the Authority and the County (**the “Lease Agreement”**) modifying the conveyance to the County of a leasehold interest in the Courthouse Project;
- c. a Bond Purchase Agreement, dated as of January 1, 2004 among the Authority, the County and the Underwriter, pursuant to which the Series 2004 Bond is to be issued (**the “Bond Purchase Agreement”**);
- d. an Assignment Agreement, dated as of January 1, 2004 between the Authority and the Underwriter, assigning to the Underwriter certain of the Authority’s rights under the Lease Agreement and the Ground Lease, which is to be acknowledged and consented to by the

County (the “Assignment Agreement”); and

- e. a Preliminary Limited Offering Memorandum for the offering and sale of the Series 2004A Bond (the “Preliminary Limited Offering Memorandum”).

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia:

1. All costs and expenses in connection with (i) the undertaking of the acquisition, design, construction, renovation, expansion, equipping and furnishing of the Courthouse Project and the issuance of the Series 2004A Bond including the Authority’s expenses, the fees and expenses of the County, and the fees and expenses of Bond Counsel and the Underwriter, for the sale of the Series 2004A Bond, shall be paid from the proceeds therefrom or other funds of the County. If for any reason the Series 2004A Bond is not issued, it is understood that all such expenses shall be paid by the County and that the Authority shall have no responsibility therefor.
2. The Board of Supervisors hereby instructs the Bond Counsel to take all such action as necessary or appropriate to conclude the financing with the Underwriter as set forth in the Bond Purchase Agreement by the issuance of the Series 2004A Bond of the Authority.
3. The following plan for financing a portion of the costs of the Courthouse Project is approved. The Authority shall use the proceeds from the issuance of the Series 2004A Bond to finance on behalf of the County, a portion of the costs of the acquisition, design, construction, renovation, expansion, equipping and furnishing of the Courthouse Project for lease to the County for a lease term not less than the term of the Series 2004A Bond at a rent sufficient to pay when due the interest and principal on the Series 2004A Bond. The obligation of the Authority to pay principal and interest on the Series 2004A Bond will be limited to rent payments received from the County under the Lease Agreement. The obligation of the County to pay rent under the Lease Agreement will be subject to the Board of Supervisors of the County making annual appropriations for such purpose. The Board of Supervisors on behalf of the County has adopted this resolution as its moral obligation to the repayment of the Series 2004A Bond. The Series 2004A Bond will be secured by an assignment of rents to the Bondholder as the holder thereof. If the Board of Supervisors exercises its right not to appropriate money for rent payments, the Bondholder may terminate the lease or otherwise exclude the County from possession of the Courthouse Project, subject to judicial authority as to the Courthouse Project. The issuance of the Series 2004A Bond on the terms set forth in a Bond Purchase Agreement is hereby approved. The Series 2004A Bond is on parity with the Series 2003A Bond issued in December 2003 to finance a portion of the costs of the Courthouse Project.
4. The Board hereby approves the Documents and the form of the Series 2004A Bond in a maximum

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amount of \$10,000,000 with a maximum amortization of approximately 25 years, from the date of its issuance, with a put option of 10, 15 or 20 years at an assumed rate of not to exceed 5.00% for the Series 2004A Bond with such changes, including but not limited to changes in the amounts, dates, payment dates and rates as may be approved by the officer executing them whose signatures shall be conclusive evidence of his approval of the same.

5. The Chairman or Vice Chairman of the Board of Supervisors, or either of them, and the County Administrator are each hereby authorized and directed to execute the Documents and such other instruments and documents as are necessary to create and perfect a complete assignment of the rents and profits due or to become due in favor of the Underwriter, to issue the Series 2004A Bond.
6. The County consents to its Bond Counsel acting as counsel to the Underwriter in this financing.
7. The County represents and covenants that it shall not take or omit to take any action the taking or omission of which will cause the Series 2004A Bond to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (**the “Code”**) or otherwise cause the interest on the Series 2004A Bond to be includable in gross income for Federal income tax purposes under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the Authority or the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds from the sale of the Series 2004A Bond.
8. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.
9. All other acts of the officers of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Series 2004A Bond, and the undertaking of the acquisition, design, construction, renovation, expansion, equipping and furnishing of the Courthouse Project and the modifications to the lease of the Courthouse Project is hereby approved, ratified and confirmed.
10. The County by acceptance of this financing agrees to indemnify, defend and save harmless, to the extent permitted by law, the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses in any way connected with the Authority, the issuance of the Series 2004A Bond, or the acquisition, design, construction, renovation, expansion, equipping and furnishing of the Courthouse Project.
11. Nothing in this Resolution, the Series 2004A Bond or the Documents shall constitute a debt or a pledge of the faith and credit of the Authority or the County, and the Authority shall not be

obligated to make any payments under the Series 2004A Bond or the Documents except from payments made by or on behalf of the County under the lease agreement pursuant to annual appropriation thereof in accordance with applicable law.

12. The County hereby designates, and allocates to the Authority in relation to the issuance of the Series 2004A Bond, such designation as “qualified tax-exempt obligations” for the purpose of Section 265(b)(3) of the Code. The County does not reasonably anticipate (nor do any of its subordinate entities reasonably anticipate) issuing more than \$10,000,000 in qualified tax exempt obligations during calendar year 2004 and the County (and any of its subordinate entities) will not designate more than \$10,000,000 of qualified tax-exempt obligations pursuant to Section 265(b)(3) of the Code during such calendar year.
13. The Board hereby reaffirms and declares, in accordance with U.S. Treasury Regulation Section 1.150-2, as amended from time to time, the County’s intent to reimburse the County with the proceeds of the Series 2004A Bond for Expenditures with respect to the Courthouse Project made on or after the date which date is no more than 60 days prior to the adoption by the Board of its Reimbursement Resolution (adopted October 9, 2001 and again on August 5, 2003). The County reasonably expects that it will reimburse the Expenditures with the proceeds of the Series 2004A Bond. The maximum principal amount of the tax exempt bonds expected to be issued for the Courthouse Project is \$15,000,000.
14. This resolution shall take effect immediately.

ADOPTED THIS 15th OF DECEMBER, 2003.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
C.P. Shorter	
Larry N. Rush	

Blacksburg Rescue Squad - Transfer From General Contingencies

On a motion by C.P. Shorter, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer is hereby authorized, as follows:

FROM:

950 General Contingencies (\$ 3,919)

TO:

330 Fire & Rescue \$3,919

Said resolution transfers funds from General Contingencies to the Blacksburg Rescue Squad to cover the cost of emergency repairs to their Hurst Tool Pumps- Jaws of Life.

The vote on the foregoing resolution was as follows:

AYE

Annette S. Perkins

Gary D. Creed

John A. Muffo

Mary W. Biggs

C.P. Shorter

James D. Politis

Larry N. Rush

NAY

None

Agency on Aging - Transfer From General Contingencies

On a motion by Mary W. Biggs, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer is hereby authorized, as follows:

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FROM:

950 General Contingencies (\$11,520)

TO:

910 Other Agencies \$11,520
 Agency on Aging

Said resolution transfers funds from General Contingencies to the Agency on Aging to restore the congregate meals from two days per week to three days per week for citizens in Montgomery County.

The vote on the foregoing resolution was as follows:

AYE

Gary D. Creed
John A. Muffo
Mary W. Biggs
C.P. Shorter
James D. Politis
Annette S. Perkins
Larry N. Rush

NAY

Literacy Volunteers of The NRV - Transfer From General Contingencies

On a motion by Annette S. Perkins, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer is hereby authorized, as follows:

FROM:

950 General Contingencies (\$1,000)

TO:

910 Other Agencies \$1,000
 Literacy Volunteers of the NRV

Said resolution transfers funds from General Contingencies to the Literacy Volunteers of the New River Valley.

The vote on the foregoing resolution was as follows:

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NAY

John A. Muffo
Mary W. Biggs
C.P. Shorter
James D. Politis
Annette S. Perkins
Gary D. Creed
Larry N. Rush

BOARD MEMBERS' REPORTS

Supervisor Perkins Agency on Aging Supervisor Perkins expressed thanks to the Board of Supervisors for approving additional funding to the Agency on Aging to provide additional meals to the elderly.

Human Services Commission Supervisor Perkins asked if all the human service agencies were sent budget packets and if there was going to be a joint meeting with the other localities regarding budget funding. The Assistant County Administrator reported that agencies who received funding last fiscal year were sent out budget packets for FY 2004-2005 and that a meeting is scheduled and would have to provide the Board with a date.

Virginia Tech/Montgomery Regional Airport Authority Supervisor Perkins reported that the Town Manager of the Town of Blacksburg has decided not to serve on the Airport Authority and will be replaced by the Mayor of the Town of Blacksburg.

Supervisor Creed - Christiansburg Community Center Supervisor Creed reported the Board of Supervisors has received a letter from the Christiansburg Community Center requesting funding to help with maintenance of the Center.

Christiansburg Community Center - Transfer from General Contingencies

On a motion by Gary D. Creed, seconded by Annette S. Perkins and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer is hereby authorized, as follows:

FROM:

950	General Contingencies	(\$5,000)
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TO:

910	Other Agencies	\$5,000
	Christiansburg Community Center	

Said resolutions transfers funds from General Contingencies to the Christiansburg Community Center.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
C.P. Shorter	None
James D. Politis	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
Larry N. Rush	

Roanoke Transit - Proposed Route to Blacksburg Supervisor Creed asked if the Board would make a formal request to the Roanoke Transit to include stops in the Elliston/Shawsville area in their proposed route schedule to the New River Valley.

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, Valley Metro received a demonstration grant from the Department of Rail and Public Transportation for transit service between Roanoke and the New River Valley; and

WHEREAS, The Blacksburg/Christiansburg/Montgomery Area Metropolitan Planning Organization (MPO) recommended approval of Valley Metro's Service Proposal-Executive Summary dated October 30, 2003, with conditions.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby requests the MPO Policy Board to recommend that Valley Metro add an additional stop in the Elliston/Shawsville area in their proposed bus route from Roanoke to the New River Valley.

The vote on the foregoing motion was as follows:

AYE

Mary W. Biggs

C.P. Shorter

James D. Politis

Annette S. Perkins

John A. Muffo

Gary D. Creed

Larry N. Rush

Supervisor Biggs

NAY

None

Supervisor Shorter State Fire Code - Burning of Candles Supervisor Shorter received several calls concerning the ban on burning candles in churches. There seems to be some confusion on what can or cannot be done. He requested the County Attorney to review the state code and provide a recommendation on what can be done in Montgomery County.

Guardrail - Intersection of Keister's Branch and Mt. Zion Road - Supervisor Shorter stated there was an accident at the Intersection of Keister's Branch and Mt. Zion Road where the car ended up in the ditch. He believes a guardrail would have prevented the car from going in the ditch. Supervisor Shorter requested that staff follow up with VDOT on the revenue sharing projects to make sure that a guardrail will be installed at this intersection.

Supervisor Shorter stated it was an honor and a pleasure to serve on the Board of Supervisors for the past four years. He expressed his appreciation to the Board members for making his term a pleasant one.

Supervisor Rush - Fairview District Home Supervisor Rush reported that Craig County has indicated they will no longer provide funds to the Fairview District Home. They have asked other jurisdictions who jointly own the Fairview District Home if they would be interested in purchasing their shares. To date, there have been no offers.

School Athletic Facilities Supervisor Rush responded to the comments made by Susan Miller during the Public Address Session about the issuance of bonds for construction/upgrading of school athletic facilities at the four county high schools. Supervisor Rush explained that the proposal before them on the upgrades is a draft proposal by the Montgomery County School Board. A committee will be formed to review and determine the best plan for each high school before plans are finalized.

Supervisor Rush stated it had been an honor to serve on the Board of Supervisors since 1992, and serving the citizens of Montgomery County. He wished the new Board Members luck in the upcoming year.

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INTO CLOSED MEETING

On a motion by Mary W. Biggs, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711
- (1) Discussion , Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
 1. Adjustment and Appeals Board
 2. Transportation Safety Commission (2 Citizen Appointments)
 3. Board of Zoning Appeals

 - (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiation Strategy of the Public Body
 1. Disposal of Public Property
 2. Parking
 3. County Owned Property

The vote on the foregoing motion was as follows:

AYE

James D. Politis
Annette S. Perkins
Gary D. Creed

NAY

None

John A. Muffo
Mary W. Biggs
C.P. Shorter
Larry N. Rush

OUT OF CLOSED MEETING

On a motion by Gary D. Creed, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Mary W. Biggs	
C.P. Shorter	
Larry N. Rush	

CERTIFICATION OF CLOSED MEETING

On a motion by C.P. Shorter, seconded by Annette S. Perkins and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business

matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

C.P. Shorter
James D. Politis
Annette S. Perkins
Gary D. Creed
John A. Muffo
Mary W. Biggs
Larry N. Rush

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

APPOINTMENTS

Transportation Safety Commission(Citizen Appointment)

On a motion by John A. Muffo, seconded by C. P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Georgia Anne Snyder-Falkinham** as a citizen representative to the **Transportation Safety Commission** effective January 1, 2004 and expiring December 31, 2006.

The vote on the foregoing resolution was as follows:

AYE

John A. Muffo
C. P. Shorter
Annette S. Perkins
Gary D. Creed
James D. Politis
Mary W. Biggs
Larry N. Rush

NAY

None

Transportation Safety Commission(Citizen Appointment)

On a motion by John A. Muffo, seconded by C. P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Ryan L. Lanham** as a citizen representative to the **Transportation Safety Commission** effective January 1, 2004 and expiring December 31, 2006.

The vote on the foregoing resolution was as follows:

AYE

John A. Muffo
C. P. Shorter
Annette S. Perkins
Gary D. Creed
James D. Politis
Mary W. Biggs
Larry N. Rush

NAY

None

Board of Zoning Appeals

On a motion by John A. Muffo, seconded by C. P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby recommends to the Circuit Court Judge, the reappointment of **Michael V. Reilly** to the **Board of Zoning Appeals** effective December 16, 2003 and expiring December 15, 2008.

AYE

NAY

John A. Muffo	None
C. P. Shorter	
Annette S. Perkins	
Gary D. Creed	
James D. Politis	
Mary W. Biggs	
Larry N. Rush	

Adjustment and Appeals Board

On a motion by John A. Muffo, seconded by C. P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Bruce T. Wicker** to the **Adjustment and Appeals Board** effective January 1, 2004 and expiring December 31, 2007.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
C. P. Shorter	
Annette S. Perkins	
Gary D. Creed	
James D. Politis	
Mary W. Biggs	
Larry N. Rush	

OTHER BUSINESS

Blacksburg Industrial Park - Conveyance of Lot 7B

Following Closed Session the Board unanimously approved the following concerning the IDA's conveyance of Lot 7B in the Blacksburg Industrial Park to McClellan and McClellan, LLC, for the purpose of constructing a building for Map Tech, Inc. McClellan and McClellan LLC, is a limited liability company created by the Owner of Map Tech, Inc., for the purpose of owning, leasing, and constructing the new

building to house Map Tech, Inc.

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED By the Board of Supervisors of the County of Montgomery, Virginia, that the Board hereby authorizes the Industrial Development Authority of Montgomery County, Virginia to convey Lot 7B consisting of 2.803 acres in the Blacksburg Industrial Park for \$30,000 an acre to McClellan and McClellan, LLC, (McClellan and McClellan, LLC, is a limited liability company created by the Owner of Map Tech for the purpose of owning, constructing and leasing of the building to be constructed on Lot 7B for Map Tech) for the purpose of expanding Map Tech Inc. business operations by constructing a 10,000 sq. ft. building on the site.

BE IT FURTHER RESOLVED, The conveyance shall be subject to the terms, covenants, conditions and restrictions contained in the Real Estate Sales Agreement and Post Closing Performance Agreement.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
C.P. Shorter	
James D. Politis	
Annette S. Perkins	
Gary D. Creed	
John A. Muffo	
Larry N. Rush	

ADJOURNMENT

On a motion by Annette S. Perkins, seconded by John A. Muffo and carried unanimously, the Board adjourned to Monday, January 12, 2004 at 7:15 p.m.

The vote on the foregoing motion was as follows:

AYE

Mary W. Biggs

C.P. Shorter

James D. Politis

Annette S. Perkins

Gary D. Creed

John A. Muffo

Larry N. Rush

NAY

None

The meeting adjourned at 9:15 p.m.

ATTEST:

Larry N. Rush
Chairman

Jeffrey D. Johnson
County Administrator